



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 5, 1991

Mr. David M. Douglas
Assistant Chief, Legal Services
Texas Department of Public Safety
P. O. Box 4087
Austin, Texas 78773-0001

OR91-627

Dear Mr. Douglas:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 14267.

You have received a request for a videotape of a traffic stop involving an employee of the Texas Department of Public Safety (the department) and the requestor. You claim that sections 3(a)(3) and 3(a)(19) of the Open Records Act excepts the requested information from public disclosure.

Section 3(a)(19) excepts from required public disclosure

photographs that depict a peace officer as defined by Article 2.12, Code of Criminal Procedure, or a security officer commissioned under Section 51.212, Education Code, the release of which would endanger the life or physical safety of the officer unless:

(A) the officer is under indictment or charged with an offense by information; or

(B) the officer is a party in a fire or police civil service hearing or a case in arbitration; or

(C) the photograph is introduced as evidence in a judicial proceeding.

Open Records Decision No. 502 (1988), a copy of which is enclosed, held that section 3(a)(19) "protects from required disclosure all photographs of peace officers unless the circumstances in subsections (A), (B), and/or (C) of section 3(a)(19) occur or the peace officer gives written consent to release as provided in section 3(c)." (Citing from the summary.)

We have examined the documents submitted to us for review and have viewed the videotape. You advise us that the videotape at issue here relates to the arrest of the requestor for violation of section 107C, article 6701d, V.T.C.S., and that the arresting officer has declined release of the videotape, pursuant to section 3(c) of the Open Records Act. It would be impracticable to release the videotape without also releasing information that depicts the peace officer. We conclude, then, that, unless any of the situations described in subsections (A), (B), or (C) of section 3(a)(19) occur, the department may withhold, under section 3(a)(19) of the Open Records Act, the requested information from required public disclosure. As we resolve this issue under section 3(a)(19), we need not consider the applicability of section 3(a)(3) at this time.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR91-627.

Yours very truly,



Kym Oltrogge
Assistant Attorney General
Opinion Committee

KO/GK/lcd
Ref.: ID# 14267

Enclosures: Open Records Decision No. 502
Videotape